

APR 2 2004 4:27PM FR DREW ASHER

301 493 0780 TO 9151724146 No. 1350, 02 P. 2



April 2, 2004

Ms. Judy Weaver, CFE, Deputy Commissioner
Supervisory Affairs & Insurance Monitoring Division
611 West Ottawa, 3rd Floor
Lansing, MI 48933

Dear Ms. Weaver:

Thank you for selecting Coventry Health Care, Inc. ("Coventry") as the purchaser of certain assets from OmniCare Health Plan, a Michigan nonprofit corporation and licensed health maintenance organization currently in rehabilitation ("OmniCare"). Coventry is excited about the prospect of entering the Michigan Medicaid market and hopefully expanding to other Medicaid regions beyond Southeastern Michigan. Coventry is a leading publicly traded managed care company covering approximately 2.4 million members. Coventry's sole focus is owning and operating local based health plans. Coventry covers approximately 324,000 Medicaid members in six markets, including approximately 190,000 in the Missouri market managed by Coventry's wholly owned subsidiary, HealthCare USA ("HCUSA"). For years, Coventry has successfully managed Medicaid programs in both rural and metropolitan areas. Furthermore, Coventry has a history of financial stability as demonstrated by its strong balance sheet with, as of December 31, 2003, \$1.4 billion in cash and investments, \$537 million in medical claim reserves, and a low debt to capital ratio of 15.5%. Coventry also continuously maintains ample unencumbered cash on hand to fund opportunities such as this one, and has access to the capital markets if necessary in the future. All of Coventry's health plans are well capitalized with cash from previous infusions and cash earnings retained in the business.

This letter is intended to reflect the parties' understanding in connection with Coventry's purchase of certain assets from OmniCare. The parties agree that the contemplated transaction is subject to Coventry's sole determination that the specifics of the October 2004 Michigan Medicaid Contract and the related Medicaid rates are acceptable to Coventry. Also, it is Coventry's understanding that the contemplated transaction to purchase certain assets of OmniCare must be approved by the rehabilitation court; that is, *E.L. Cox, Commissioner of Insurance for the State of Michigan v. Michigan Health Maintenance Organization Plans, Inc.*, File No. 98-88265-CR, currently pending in the Circuit Court For The 30th Judicial Circuit, Ingham County, Michigan ("Rehabilitation Court"). Further, it is the parties intent to enter into a Definitive Asset Purchase Agreement based upon the key terms contained in this letter of intent.

Consistent with our business model, Coventry would create a local subsidiary to manage the Medicaid operation in Michigan. We would anticipate that many of the staff required to run the local operation would come from the existing OmniCare employees.

The key terms would be as follows:

1. **New Company.** Coventry or one of its wholly owned subsidiaries would incorporate a new Michigan for-profit company ("NEWCO") prior to May 15, 2004. Coventry will capitalize NEWCO with a cash infusion at a level at least equal to 200% of Regulatory Risk Based Capital ("RBC") and will satisfy all applicable capital and surplus requirements for maintaining a Michigan health maintenance organization license by September 23, 2004.
2. **Medicaid Contract.** As a condition to closing, NEWCO would be awarded a Medicaid contract with the Michigan Department of Community Health ("DCH") effective October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later) at Medicaid rates that are acceptable to NEWCO in the context of the OmniCare book of business and as otherwise set forth herein. The members of OmniCare would be transferred and assigned to NEWCO effective October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later). Members will be notified of the change in their Medicaid managed care plan.
3. **HMO License and Service Area Authority.** Subject to the approval of the OmniCare Rehabilitation Court and under the supervision of OFIS and the Rehabilitator, prior to October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later), the Rehabilitator and OmniCare would transfer OmniCare's Michigan health maintenance organization ("HMO") license to NEWCO.
4. **Access to Information and Assignment of Certain Contracts.** Subject to the approval of the OmniCare Rehabilitation Court, the Rehabilitator would cause OmniCare to provide the following to NEWCO, and the contemplated transaction would be documented in an Asset Purchase Agreement:
 - Network cost data, claim history, high dollar claims data, the latest claims experience data, description of benefits, latest premium data, and latest census data.
 - Certain books and records (or copies thereof) of OmniCare, including but not limited to, membership forms and files, personnel files, and payroll information.
 - Other data reasonably requested by NEWCO to maximize retention of existing Medicaid membership.
 - Assistance to NEWCO in filling out other network needs (beyond its direct contracting efforts). The Rehabilitator would cause OmniCare to facilitate assignment of certain OmniCare provider contracts to NEWCO to the extent such contracts are assignable and to the extent requested by NEWCO. As a condition to Closing, NEWCO would acquire an adequately contracted provider network that is consistent with Coventry's provider network administration requirements to service the Medicaid membership being acquired.

- Assistance to NEWCO in staffing its Michigan operation by cooperating with NEWCO in conducting interviews of existing personnel.
 - Such other OmniCare assets as the parties mutually agree upon and identify.
5. **Name and Marks.** Subject to the approval of the OmniCare Rehabilitation Court and under the supervision of OFIS, the Rehabilitator and OmniCare would assign the rights to its name and other service marks to NEWCO effective as of the consummation of the contemplated transaction herein (the "Closing"). Such Closing would take place prior to October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later).
6. **OmniCare Liabilities.** Subject to the approval of the OmniCare Rehabilitation Court, neither NEWCO nor Coventry (nor any of its affiliates) would assume any liabilities of OmniCare whatsoever under the Asset Purchase Agreement. Therefore, all OmniCare liabilities incurred before October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later), known and unknown, disclosed and undisclosed, would remain with the OmniCare estate. Such liabilities may include all claims, costs, liabilities, obligations, judgments, settlements or expenses whatsoever (including legal fees and costs related thereto, and the cost and responsibility for administering such claims and expenses) related to the ownership, operation and wind down of OmniCare. Further, subsequent to the Closing of the Asset Purchase Agreement, but before October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later), OmniCare would be placed into liquidation and its liabilities would be discharged in the course of the liquidation proceedings. Prospectively, NEWCO would take responsibility for member benefits and administration for claims that accrue to NEWCO and relate to dates of service on or after October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later) under the newly awarded DCH Medicaid contract.
7. **Cooperation.** NEWCO, the Rehabilitator and OmniCare would cooperate with each other in developing the communication plan to members, providers and other constituents of OmniCare, communicating with OFIS, transferring the license, obtaining service area and any other necessary approvals that are required, and otherwise assisting in the execution and implementation of the Asset Purchase Agreement.
8. **Expenses.** Each of the parties would bear its own costs, fees and expenses incurred in connection with this letter of intent, the Definitive Asset Purchase Agreement and related regulatory and court approvals.

9. **Restrictions.** Coventry warrants that there are no existing legal restrictions to Coventry or HCUSA that would prevent them, or their expected management teams, from being licensed in Michigan to operate an HMO and participate in the Michigan Medicaid program. Furthermore, there are no known current, pending or expected legal, financial or regulatory proceedings or circumstances involving Coventry or HCUSA that would materially adversely affect its ability to complete the proposed transaction or operate a financially solvent HMO in Michigan.
10. **Purchase Price.** The "Purchase Price" would be paid in cash and is for all of the assets being acquired as discussed in this letter of intent. The Purchase Price ultimately would be calculated as \$200 multiplied by the number of active Medicaid members of OmniCare's existing Medicaid membership that continue their enrollment with NEWCO into the contract year beginning October 1, 2004 (or such other specified effective date of the DCH Medicaid Contract, whichever is later) and remain for a specified period of time as set forth herein. A cash payment of \$100 per such member would be made 45 days after the commencement of the October 2004 Medicaid contract ("Commencement"). The remainder of the Purchase Price would be paid based upon the number of such members that continued enrollment with NEWCO for 3 full months after the Commencement multiplied by \$200, less the amount previously paid.
11. **Other Approvals.** Coventry is prepared to proceed expeditiously to consummate a transaction with the Rehabilitator and OmniCare. However, Coventry may require the following approvals in order to complete such a transaction: (1) Coventry Board of Directors approval; (2) all necessary regulatory approvals from OFIS and DCH; and (3) any other applicable statutory or regulatory approvals. Coventry agrees to make a recommendation to its Board of Directors in connection with the adequacy of the Medicaid rates and Program as soon as reasonably possible and in no event later than five (5) business days after DCH announces the rates for the Medicaid contracts. Within this 5 day period, Coventry will notify the Rehabilitator in writing if such new rates are unacceptable. The parties agree that the approval of the OmniCare Rehabilitation Court is a necessary prerequisite to the sale of assets contemplated by this letter.
12. **Confidentiality.** The parties agree and acknowledge that the Confidentiality Agreement between them dated February 11, 2004 shall remain in full force and effect; except that the Rehabilitator may disclose such information as she determines is necessary and appropriate in order to obtain approval by the OmniCare Rehabilitation Court of the sale of assets contemplated by this letter ("Disclosed Information"). The Rehabilitator agrees to notify Coventry in writing of the nature and content of the Disclosed Information at least one (1) business day prior to their disclosure and to use her best efforts to minimize the scope of the Disclosed Information in making her determination.

APR. 2. 2004 4:28PM FR DREW ASHER

301 493 0780 TO 9151724146. No. 13505.02P. 6

This Section 12 shall not apply with respect to the tax treatment and/or tax structure of the proposed transaction.

13. **Negotiations and Exclusivity Period.** The Rehabilitator agrees that she will not solicit, entertain, or accept any other proposals from anyone concerning the sale of any or all of the assets of OmniCare while this letter is in effect or until after the termination of this letter.
14. **Definitive Agreement.** The terms and provisions governing the contemplated transaction described herein are subject in all respects to, and will be contained in, the Definitive Asset Purchase Agreement by and among the parties, to be negotiated in good faith and containing such representations, warranties, covenants and conditions as are customary in transactions of this kind, and as agreed to by the parties. The parties agree to use their best efforts to cause the Definitive Asset Purchase Agreement to be prepared in final form, to be submitted for all necessary action and approvals, and to be executed no later than May 14, 2004.
15. **Closing Conditions.** Coventry's proposal is subject to customary closing conditions including, but not limited to: (i) the negotiation of an acceptable definitive agreement; (ii) the absence of material adverse change to OmniCare's operations affecting in any material manner the contemplated transaction; (iii) the Other Approvals described in Section 11 herein; and (iv) any other conditions set forth in this letter of intent.
16. **Due Diligence.** The parties agree that Coventry shall have the right to continue its due diligence investigation of OmniCare for thirty (30) days. OmniCare, OFIS, the Rehabilitator, and their employees, agents and representatives agree to cooperate with Coventry in the performance of such due diligence. Prior to the Closing, OmniCare shall continue to perform in the normal course of OmniCare's rehabilitation, and no material changes shall be made to its operations affecting in any material manner the contemplated transaction without the prior consent of Coventry, which shall not be unreasonably withheld. If at any time or for any reason Coventry decides not to complete the sale of assets contemplated in this letter, Coventry agrees to immediately notify the Rehabilitator in writing of its decision.
17. **Termination.** This letter of intent shall terminate without liability to any party hereto upon the occurrence of any one of the following, irrespective of the reason therefore:
 - (a) agreement of the parties hereto; or
 - (b) failure of the OmniCare Rehabilitation Court to approve the contemplated transaction on or before May 15, 2004; or

- (c) failure to execute and deliver the Definitive Asset Purchase Agreement on or before May 15, 2004, unless such date is extended by mutual agreement of the parties in writing.

To memorialize the understanding documented above,

OmniCare Health Plan, in Rehabilitation

Coventry Health Care, Inc.

By: Linda G. Watters

By: Drew Asher

Name: LINDA A. WATTERS

Name: DREW ASHER

Title: Rehabilitator

Title: VICE PRESIDENT

Date: April 2, 2004

Date: APRIL 2, 2004